SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 220

OFFICIAL REPORT
(HANSARD)

Wednesday, June 13, 2018

The Honourable GEORGE J. FUREY,
Speaker

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Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Wednesday, June 13, 2018

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

THE LATE JOAN DILLON, O.N.S.

Hon. Mary Coyle: Honourable colleagues, I rise today to pay tribute to Joan Dillon, local hero, champion of children and youth, promoter of racial harmony, educator, lover [illegible]ory and dear friend.

"Bloom where you are planted" is an adage that this tenacious woman lived by, and Joan was firmly planted in the northeastern Nova Scotian community of Antigonish. Hailing from Northern England, migrating to Canada as a child and then making her way to our community, Joan left an indelible mark on everyone who met her — everyone she helped to bloom.

Joan was inducted into the Afrikan Canadian Heritage and Friendship Centre in Guysborough, recipient of the Order of Nova Scotia, the Canada 125 medal, the Silver Acorn Award for Scouting, an honorary X Ring and an honorary doctorate from St. Francis Xavier University.

Now, why did Joan win all of these awards? It was for her volunteer work with young people, her creative leadership in education, community building and in what today we would refer to as "reconciliation."

Anne Marie Paul of Paqtnkek Mi'kmaw Nation said:

> Joan loved everybody she met. Love had no borders or colours to her and she treated us all equally. She had the biggest heart of gold.

Joan Dillon was best known as the heart and soul of X-Project, a student-based society established in 1965. Joan was instrumental in bringing together thousands of students, community members, parents, elders and youth in the X-Project circle.

For decades, busloads of StFX students headed to the Mi'kmaw communities of Paqtnkek and Pictou Landing, and the African Nova Scotian communities of Lincolnville, Sunnyville and Upper Big Tracadie to work with kids on homework and enjoy sports and recreation. Kids from these communities were welcomed to campus for leadership and varsity sports events.

Anne Marie Paul met Joan when she was five years old and began taking part in X-Project activities. Today Anne Marie serves on the band council and as an X-Project volunteer.

There is even a street in Paqtnkek named for Joan Dillon.

Reverend Elaine Walcott of Lincolnville said, "A lot of us never left Guysborough County until we went on an X-Project trip with Joan Dillon. The lens by which we saw the world outside our communities was by way of Joan . . . ." She continued, "She encouraged people to pursue their dreams and celebrate the gifts they had."

StFX education professor Dr. Lisa Lunney Borden extolled Joan's foresight in understanding that X-Project would be a way for students to get out of the campus bubble and go into communities to learn.

Joan Dillon was even orchestrating things from her bed in the nursing home where she recently passed away. It was at her bedside that we plotted ways to further inspire and educate community members by bringing in Wab Kinew, Senator Murray Sinclair, and Buffy Sainte-Marie.

Joan Dillon was one of those people you never said no to. She was someone who, by her example, made all of us want to be better versions of ourselves.

Joan had a real fondness for my grandson Jack and he for her.

In closing, I will just say the farewell greeting that she taught Jack: Pip pip, cheerio, Joan!

You have left our world a better place.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Shelley Rolland-Poruks and her family. They are the guests of the Honourable Senator White.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

NATIONAL PUBLIC SERVICE WEEK

Hon. Vernon White: Honourable senators, I rise today to acknowledge National Public Service Week. This week we celebrate the hard work of Canada's federal employees and acknowledge their commitment in the service of Canadians.

Today, as part of this week's activities, one of these outstanding federal employees was recognized by the United Way with a Community Builder Award.

Ms. Shelley Rolland-Poruks is a federal employee who has made a career in the public service working in Chalk River Laboratories, Elections Canada, and currently working for the Canadian Environmental Assessment Agency.

Ms. Rolland-Poruks has dedicated thousands of hours to support many community organizations in Ottawa and the surrounding area. In fact, she has volunteered for 15 years with many charities including United Way Ottawa, Renfrew County United Way, the YMCA of Durham, Kiwanis Club and many more.

In addition, she is a long-time supporter of United Way Ottawa and other charities through her generosity for the Government of Canada Workplace Charitable Campaign. She has helped to create engaging and successful campaigns in her department and incorporated her role as a board member now with United Way Ottawa.

Volunteers give their time and effort to transform communities. And so the United Way has a special program called Community Builder Awards where it recognizes amazing organizations, partnerships, agencies, neighbourhood groups and individuals who work to make Ottawa better for everyone.

Many volunteers go without formal recognition — they are unsung heroes in our community.

Ms. Rolland-Poruks truly exemplifies what it is to be a community builder, and on behalf of United Way Ottawa, as a volunteer with them myself, I am truly honoured to recognize her during National Public Service Week.

Thank you, Ms. Rolland-Poruks, for your dedication to the public service and for your years of volunteer work in the Ottawa area.

Hon. Senators: Hear, hear!

NATIONAL ABORIGINAL HISTORY MONTH

Hon. Lillian Eva Dyck: Honourable senators, in celebration of National Aboriginal History Month, I rise today to recognize and congratulate Cameron Lozinski, a 19-year-old University of Winnipeg Indigenous Studies major from Gimli, Manitoba, who is working to revitalize and preserve Swampy Cree, his ancestral language.

Cameron grew up in Northern Manitoba where Swampy Cree is largely spoken. His mother's side of the family is Swampy Cree, and his great-grandmother grew up speaking the language. These factors helped to foster within him a great interest in Swampy Cree, which over time developed into a passion to learn and share the language with others.

Early in his youth, with no local speakers to rely on, Cameron turned to books and the internet to enhance his Swampy Cree vocabulary. He found a community of Cree learners in the Facebook group #CreeSimonSays, initiated by Simon Bird, an educator and school principal from Saskatchewan. This Facebook group focuses on teaching Cree dialects of all kinds. As Cameron's knowledge of the language grew, so did his passion to share the language. For instance, in his last semester of high school, to get his classmates interested, he started translating the cafeteria's daily lunch specials into Swampy Cree.

Now at university, he continues to expand his linguistic abilities and has become determined to keep the Swampy Cree language, which currently has about 2,500 speakers alive. In determining how to accomplish his goal, the answer to him was obvious — develop an app.

Lozinski said, "People are on their phones reading English all day. I don't think there's a lack of interest in learning the language, I think there's a lack of accessibility. An app would help preserve the language and help bring it up to 2018."

He's currently working on creating the first Swampy Cree language app to include modern terminology and a standardized spelling system. Cameron estimates an app of this nature could cost between $20,000 and $80,000 to develop and, accordingly, has started a GoFundMe campaign to raise money to make his dream a reality.

Cameron said, "If I can invest $80,000 to save a language that has been spoken since time immemorial, I think it's worth every penny."

• (1410)

I, for one, agree with Cameron. Language is an essential part of what makes us human and is integral to the vitality of a culture. To preserve a language is to preserve a way of life, and I hope you will join me in supporting Cameron in his noble endeavour to do just that.

Thank you, *kinanaskomitin*.

Hon. Senators: Hear, hear!

THE HONOURABLE RATNA OMIDVAR

CONGRATULATIONS ON HONORARY DOCTOR OF LAWS

Hon. Frances Lankin: Honourable senators, this time of year is a time of celebration for many. I'm thinking of all the students graduating and all the convocation ceremonies taking place and I know that many of us, as grandparents, parents and relatives, take pride in seeing our youth succeed.

Often at these ceremonies there is something else special that happens, and it is an opportunity for institutes of higher learning to celebrate both the accomplishments and contributions of exceptional people in our country and our world.

Those people become models for the students. The messages they deliver are important in terms of the students being able to see themselves in a successful life as their lives unfold having watched the path that others have taken.

Such an event took place on Monday of this week in Toronto, at Ryerson University. One of our colleagues was celebrated in such a way and was a recipient of an Honorary Doctor of Laws. This colleague is someone whom I also count as a friend, but I think it's amazing that I work with and that I am friends with someone who is acknowledged and celebrated as an internationally recognized voice on migration, diversity and inclusion. I'm proud to have that association.

There are a number of other senators here who have that distinguished moniker of being international leading voices. This is such an amazing place, but we don't take time to celebrate them all and this is a moment for me.

The other thing that is exceptional about Senator Ratna Omidvar, who received her Honorary Doctor of Laws this week — this is her second one — is the impact she has had on our collective lives in Canada. She came here as an immigrant and has been a leader in community organizations at the grassroots level. Peoples' lives are touched through her settlement work and advocacy around migration and immigration issues. Her tenacity, her strength and her growing presence over the years in leadership roles, many awards and contributions, co-editing and authorship of papers and books, are among her many distinguished recognitions. I'm not going to list them because you can read those.

All this to say I have experience in work in Toronto in community and community-building through United Way and other organizations that worked in partnership with Ratna when she led the Maytree Foundation. She did consistent work to reach out to people in our community whose voices were not being heard. We suffered from their perspective and expertise not being brought to bear on conversations. Her work at Maytree changed the dynamic on that in Toronto, and her work in establishing TRIEC and organizations like that across the country has contributed greatly to our country.

Join me in helping celebrate Senator Ratna Omidvar's honorary degree.

Hon. Senators: Hear, hear!

NATIONAL BLOOD DONOR WEEK

Hon. Pamela Wallin: Honourable senators, I would like to echo the words of Senator Mercer from yesterday. Many of us have family members who have required life-saving blood transfusions, and some of us in this chamber have required them, so National Blood Donor Week hits close to home.

Having a safe, sufficient and predictable national blood system is important to support people in need. Following the tainted blood crisis some 20 years ago, many restrictions were placed on potential donors. For example, I was not eligible to give blood following my cancer diagnosis and treatment. Today, a person cancer-free for five years can now donate their blood, and progress to open up eligibility to donate continues.

Men who have sex with men were previously ineligible to give blood. As research has evolved, the so-called ban has been nearly eliminated. I know many gay men who are eager to help their fellow Canadians, so I sincerely hope that research soon reflects that and allows this population to contribute as well.

Canadians are regularly encouraged by Canadian Blood Services to visit voluntary blood donor clinics, although they are now competing with cash-for-blood clinics that have opened in two provinces. In a plea from CBS earlier this week, an additional 44,000 donors are needed right now to replenish the critically low supply heading into the July long weekend. According to CBS, one in every two Canadians are eligible to donate blood; however, only one in 60 do.

Our humanity always emerges in terrible situations, such as the Humboldt bus crash or the van attack in Toronto. People come out in droves to roll up their sleeves and donate blood to support victims. It's important to draw attention to these selfless acts at times of crisis. However, we need our fellow Canadians to donate regularly. A sufficient national supply of blood and plasma is literally a life or death situation.

So, this is National Blood Donor Week and I'm encouraging my Senate colleagues, Senate staff and all Canadians to do just that: to donate. One weekend every couple of months, if you are eligible, instead of going to the mall, watching a movie or getting your nails done, spend a few hours at the local blood donor clinic and engage in the most selfless of acts, giving blood.

Thank you.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Imam Shaikh M. Tawhidi. He is the guest of the Honourable Senator Tkachuk.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

THE HONOURABLE YVONNE BOYER

CONGRATULATIONS ON HONORARY DOCTORATE

Hon. Kim Pate: Honourable senators, first I want to add my congratulations to those of Senator Lankin and wish to congratulate Dr. Ratna Omidvar.

Dr. Yvonne Boyer was also recognized by Nipissing University on Friday with an Honorary Doctorate, and I think all of us would join in congratulating you.

Hon. Senators: Hear, hear!

INDIGENOUS WOMEN IN PRISON

Hon. Kim Pate: On a less positive note, though, today the Supreme Court of Canada also ruled that Canada's prison system has failed to ensure that its risk assessment tools are not racially biased against Indigenous prisoners.

Correctional Service of Canada uses risk assessment tools as a basis for its decisions about individuals' conditions of confinement, programs and services, all of which materially affect their ability to integrate into the community in a safe, supervised and structured manner. The current flawed classification process has resulted in a federal prison system in which half of all women in segregated conditions are Indigenous.

In *Ewert v. the Queen*, the court noted that:

> Numerous government commissions and reports, as well as decisions of this Court, have recognized that discrimination experienced by Indigenous persons, whether as a result of overtly racist attitudes or culturally inappropriate practices, extends to all parts of the criminal justice system, including the prison system . . . .

The court concluded that CSC places Indigenous prisoners in danger of systemic discrimination. However, they declined to find a violation of the liberty and equality rights of Indigenous prisoners, citing a lack of evidence on the record. Well, guess who controls the record.

CSC has known for many years that its policies and procedures have an adverse impact and discriminate against and, therefore, violate the rights of prisoners on the basis of the intersecting grounds of race, gender and disability.

In fact, in response to such a finding by the Canadian Human Rights Commission in 2003, CSC commissioned a review of the procedures for women. The conclusion of that study? Despite actually posing minimal to no risk to public safety, women are routinely over-classified, particularly if they are Indigenous and are otherwise racialized and particularly if they have mental health issues.

I urge that we reflect on the *Ewert* decision as we mark not only three years since the Calls to Action of the Truth and Reconciliation Commission, but 10 years since Canada's statement of apology to former students of Indian residential schools, and acknowledge the ongoing discriminatory impacts of government policies on the lives of Indigenous peoples, policies that have resulted not only in their over-incarceration but in ensuring that Indigenous peoples in prisons needlessly serve harsher and longer sentences.

I urge that we reflect on the *Ewert* decision as we commemorate and celebrate National Indigenous History Month and acknowledge Canada's urgent need to advance its relationship with Indigenous peoples, to develop trust and move forward together.

• (1420)

Together, let us take this opportunity to work collaboratively and collectively to achieve justice, fairness and reconciliation, and to end our country's legacy of inequality and colonialism. Thank you, *meegwetch*.

Hon. Senators: Hear, hear.

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honourable Senators, today we will acknowledge two of our pages for their hard work and dedication to their chores here in the Senate. They will be leaving us this year.

Bailey Muir-Cressman is from Whitehorse, Yukon. He will be going into his third year at Carleton University, double majoring in history and African studies. He tells us that he is very proud to have represented his territory and the North over the past two years and is excited to explore new opportunities on Parliament Hill.

Bailey would like to thank all senators and staff for their invaluable contributions to his experience.

We would like to thank you, Bailey.

Hon. Senators: Hear, hear.

The Hon. the Speaker: Deputy Chief Page Sarah Crosby hails from Prince Edward Island. This month she graduated from the University of Ottawa with an Honours Bachelor of Arts degree in political science with a minor in Spanish. Though she will be leaving the Senate, she is excited to continue working on the Hill as a participant in the Parliamentary Internship Programme with the Canadian Political Science Association. She tells us that she has learned much from her time in the Senate and is extremely honoured to have served as Deputy Chief Page for 2017-18.

We would like to thank you, Sarah, for all your hard work.

Hon. Senators: Hear, hear.

[*Translation*]

ROUTINE PROCEEDINGS

STUDY ON ISSUES RELATING TO CREATING A DEFINED, PROFESSIONAL AND CONSISTENT SYSTEM FOR VETERANS AS THEY LEAVE THE CANADIAN ARMED FORCES

NINETEENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE DEPOSITED WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Jean-Guy Dagenais: Honourable senators, I have the honour to inform the Senate that pursuant to the orders adopted by the Senate on March 7, 2017, and June 11, 2018, the Standing Senate Committee on National Security and Defence deposited

with the Clerk of the Senate on June 13, 2018, its nineteenth report entitled *From Soldier to Civilian: Professionalizing the Transition*.

(On motion of Senator Dagenais, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[*English*]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MISSION TO THE COUNTRY THAT WILL NEXT HOLD THE ROTATING PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION AND SECOND PART OF THE 2018 SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, APRIL 16-27, 2018—REPORT TABLED

Hon. Percy E. Downe: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Europe Parliamentary Association respecting its mission to the next country to hold the rotating Presidency of the Council of the European Union, and its participation at the Second Part of the 2018 Session of the Parliamentary Assembly of the Council of Europe, held in Vienna, Austria and Strasbourg, France, from April 16 to 27, 2018.

MEETING OF THE STANDING COMMITTEE OF PARLIAMENTARIANS OF THE ARCTIC REGION, MAY 13-14, 2018—REPORT TABLED

Hon. Percy E. Downe: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Europe Parliamentary Association respecting its participation at the meeting of the Standing Committee of Parliamentarians of the Arctic Region, held in Kiruna, Sweden, on May 13 and 14, 2018.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

ROSE-ROTH SEMINAR, JULY 3-5, 2017—REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association respecting its participation at the 95th Rose-Roth Seminar, held in Kyiv, Ukraine, from July 3 to 5, 2017.

UKRAINE-NATO INTERPARLIAMENTARY COUNCIL, SUB-COMMITTEE ON TRANSITION AND DEVELOPMENT AND SUB-COMMITTEE ON NATO PARTNERSHIPS, MARCH 5-6, 2018—REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association respecting its participation at the Ukraine-NATO Interparliamentary Council, the Sub-Committee on transition and development and the Sub-Committee on NATO Partnerships, held in Odessa, Ukraine, on March 5 and 6, 2018.

JOINT VISIT OF THE UKRAINE-NATO INTERPARLIAMENTARY COUNCIL AND THE SUB-COMMITTEE ON NATO PARTNERSHIPS, APRIL 4-7, 2017—REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association respecting its participation in the joint visit of the Ukraine-NATO Interparliamentary Council and the Sub-Committee on NATO Partnerships, held in Kyiv and Hostomel, Ukraine, from April 4 to 7, 2017.

[*Translation*]

ANNUAL SESSION OF THE NATO PARLIAMENTARY ASSEMBLY, OCTOBER 6-9, 2017—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association respecting its participation at the 63rd annual session of the NATO Parliamentary Assembly, held in Bucharest, Romania, from October 6 to 9, 2017.

[*English*]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

ANNUAL MEETING OF THE COUNCIL OF STATE GOVERNMENTS' MIDWESTERN LEGISLATIVE CONFERENCE, JULY 9-12, 2017—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the 72nd annual meeting of the Council of State Governments' Midwestern Legislative Conference, held in Des Moines, Iowa, United States of America, from July 9 to 12, 2017.

ANNUAL LEGISLATIVE SUMMIT OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES, AUGUST 6-9, 2017—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Annual Legislative Summit of the National Conference of State Legislatures, held in Boston, Massachusetts, United States of America, from August 6 to 9, 2017.

ANNUAL MEETING AND REGIONAL POLICY FORUM OF THE COUNCIL OF STATE GOVERNMENTS' EASTERN REGIONAL CONFERENCE, AUGUST 13-16, 2017—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the 57th annual meeting and Regional Policy Forum of the Council of State Governments' Eastern Regional Conference, held in Uncasville, Connecticut, United States of America, from August 13 to 16, 2017.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to proceed to Motions, Order No. 347:

Hon. Serge Joyal, pursuant to notice of June 7, 2018, moved:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to meet on Wednesday, June 13, 2018, at 3 p.m., even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

He said: Honourable senators, this is essentially to receive the Minister of Democratic Institutions at 3:15 .m. this afternoon to testify on Bill C-50, An Act to amend the Canada Elections Act (political financing).

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

THE SENATE

NOTICE OF MOTION TO URGE THE GOVERNMENT TO CEASE DIPLOMATIC RELATIONS WITH IRAN

Hon. Leo Housakos: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, in light of the Government of Canada's recent significant shift in its foreign policy relating to Iran, which does not reflect the Senate's recent decision to reject the principles of Bill S-219, An Act to deter Iran-sponsored terrorism, incitement to hatred, and human rights violations, including an annual report of Iranian human rights violations, the Senate now:
>
> (*a*) strongly condemn the current regime in Iran for its ongoing sponsorship of terrorism around the world, including instigating violent attacks on the Gaza border;
>
> (*b*) condemn the recent statements made by Supreme Leader Ayatollah Ali Khamenei calling for genocide against the Jewish people;
>
> (*c*) call on the government to:
>
> (i) abandon its current plan and immediately cease any and all negotiations or discussions with the Islamic Republic of Iran to restore diplomatic relations;
>
> (ii) demand that the Iranian Regime immediately release all Canadians and Canadian permanent residents who are currently detained in Iran, including Maryam Mombeini, the widow of Professor Kavous Sayed-Emami, and Saeed Malekpour, who has been imprisoned since 2008; and
>
> (iii) immediately designate the Islamic Revolutionary Guard Corps as a listed terrorist entity under the *Criminal Code* of Canada; and
>
> (*d*) stand with the people of Iran and recognize that they, like all people, have a fundamental right to freedom of conscience and religion, freedom of thought, belief, opinion, and expression, including freedom of the press and other forms of communication, freedom of peaceful assembly, and freedom of association.

• (1430)

NOTICE OF MOTION TO URGE THE GOVERNMENT TO INITIATE CONSULTATIONS WITH VARIOUS GROUPS TO DEVELOP AN ADEQUATELY FUNDED NATIONAL COST-SHARED UNIVERSAL NUTRITION PROGRAM

Hon. Art Eggleton: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Senate urge the government to initiate consultations with the provinces, territories, Indigenous people, and other interested groups to develop an adequately funded national cost-shared universal nutrition program with the goal of ensuring healthy children and youth who, to that end, are educated in issues relating to nutrition and provided with a nutritious meal daily in a program with appropriate safeguards to ensure the independent oversight of food procurement, nutrition standards, and governance.

QUESTION PERIOD

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

DIPLOMATIC RELATIONS WITH IRAN

Hon. David Tkachuk: Senator Harder, yesterday the other place adopted a motion condemning Iran and demanding, among other things, that the government ". . . abandon its current plan and immediately cease any and all negotiations or discussions with the Islamic Republic of Iran to restore diplomatic relations . . ." and ". . . immediately designate the Islamic Revolutionary Guard Corps as a listed terrorist entity under the Criminal Code of Canada . . . ."

The Prime Minister and the Minister of Foreign Affairs both voted in favour of the motion.

When Bill S-219 was before the Standing Senate Committee on Foreign Affairs and International Trade, Global Affairs Canada wrote a letter to the chair of that committee opposing the bill because, in their words, ". . . it is likely Iran would react negatively to the Bill. This negative Iranian reaction could serve to hinder the eventual re-establishment of 'normal' diplomatic relations between Canada and Iran." The letter further stated that Canada is ". . . exploring re-engagement with Iran in a step-by-step manner," and "that it is through dialogue, not withdrawal and isolation, that it can advance Canada's interests . . . ."

When you spoke on Bill S-219 in the Senate on May 8, you condemned it using the same language: that it would severely constrain the government's ability to advance Canada's interests.

Does the Government of Canada still believe, as it argued so vehemently in opposing Bill S-219, that engagement is still in Canada's best interests in dealing with Iran?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. He quite rightly references the votes that have taken place in the other chamber, which reflect the view of the government in the following way: With its recent actions, particularly with respect to the consular cases that have been referenced in this chamber, the Government of Iran has displayed a lack of cooperation to which the Government of Canada has reacted by not moving forward with any engagement or re-engagement pending actions by the Government of Iran to resolve those issues that are of great concern to the Government of Canada and all Canadians.

Clearly, until and unless those issues are addressed, the desired outcome of having an engagement cannot proceed.

Senator Tkachuk: Yesterday, a spokesperson for Public Safety Minister Ralph Goodale cast doubt that the minister and his department would adhere to the will of Parliament, demanding the IRGC be listed as a terrorist entity. That spokesman, Scott Bardsley, said, "Public Safety has taken note of the views Members of Parliament expressed . . . ," but he stated that the IRGC's Qods Force is already listed.

Senator Harder: Again, with respect to the listing of certain entities, the ministers responsible will be taking into account the votes that they themselves participated in and ensure the appropriate steps are taken.

Hon. Leo Housakos: Honourable senators, my question is to the Leader of the Government in the Senate. It also has to do with the current situation between Canada and Iran.

The abuses committed by the Iranian regime are plentiful and well known. The Iranian regime continues to sponsor terrorism throughout the Middle East, as evidenced in these past recent weeks by support for the violence fuelled by Hamas in Gaza.

The Iranian people continue to have their most basic human rights violated. People are being thrown off rooftops just simply because they are gay or lesbian. Women are arrested by the morality police and beaten to death for not covering their faces in public, actions I'm sure the Trudeau government would agree are appalling.

In light of all these abuses and more, while I thank the Liberal government for finally taking a principled stand on Iran yesterday, one must ask why it took so long. Senator Harder, why did your government change their policy from that of the previous government, given all we knew of the Iranian regime? Is this government simply blinded by the political gamesmanship of undoing the efforts of previous governments at all costs?

Senator Harder: Thank you for the question. Of course not. The positions of the Government of Canada in respect to engaging countries with whom we have significant differences are motivated by the view that engagement is better than lack of engagement, that multilateralism is better than individual action and, frankly, that diplomacy is better outside of a legislature restricting the ability of a government to engage in diplomatic activities with colleagues, like-minded countries and the like.

I do think the issues that have been raised, particularly in the last number of months — and the Minister of Foreign Affairs has reflected on this — have put to the side any discussions and further engagement until the actions the Government of Canada wishes the Iranian government to take with respect to the consular cases I have referenced have been taken.

Senator Housakos: Government leader, we all agree on dialogue and international diplomacy, but it has been a month now that senators like Senator Tkachuk and Senator Frum have been insisting that the government at least keeping a regime like the Iranian regime in check by setting certain benchmarks.

Given that your government finally seems to see the error of its ways on this particular situation, provided yesterday's actions were not just for political expediency, are you and your government ready to commit to the effective and meaningful policy of its predecessor; commit to immediate cutting off all diplomatic ties, including halting steps to reopening the Canadian embassy in Iran; and employ the sanctions that were previously employed by the previous government?

Senator Harder: Again, I believe the senator, wilfully or otherwise, is misrepresenting the position of the Government of Canada. The government has undertaken, in concert with multilateral efforts, the extension of sanctions as a result of the behaviour of the Iranian government. The Government of Canada has, as the Minister of Foreign Affairs indicated, set aside the engagement process, which had been under way, in light of the consular cases. The Government of Canada continues to act vigilantly with the appropriate international community on this matter.

I hope this is an issue on which Canadians and parliamentarians can be united. I was pleased to see yesterday that in the other chamber that happened.

NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

Hon. Rosa Galvez: My question is for the Leader of the Government in the Senate.

Senator Harder, considering the federal government recently purchased the Trans Mountain pipeline, I'm hoping you can help me clarify some points. Canadians want information to explain why the government made some decisions, such as procuring a pipeline project with a portion of public money.

The government will benefit from transparency with Canadians. We are hearing a lot of contradictory information in the media about pipelines — misinformation such as the assertion that pipelines are built to last forever, that energy demand is synonymous with demand for petroleum or that we can expect Asian markets will have continued or increased demand for Canadian petroleum, despite recent investment in clean energy technology or cheaper and abundant U.S. petroleum available on the market.

With respect to the federal government's recent purchase of the Trans Mountain pipeline, and with respect to the Trans Mountain expansion project, could you please elaborate on the forecast that has been conducted to assess the value of the oil sands and its present and future impacts on the Canadian economy? Given that China, for example, has been heavily investing in alternative and renewable technology, has the demand from Asian markets been assessed?

• (1440)

Considering the questionable financial situation of Kinder Morgan and their easy willingness to sell Canada the pipeline, has the Government of Canada actually determined whether the pipeline will be, in fact, profitable and by how much?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her series of questions. I'm afraid that Question Period doesn't allow me to go into all of the details of the questions that have been asked. Let me make a couple of points, though.

This chamber has engaged in, on various occasions, both with the emergency debate and with the bill that Senator Black brought forward, a very intensive reflection on the state of the industry and the needs of Canada in the general energy context, as well as in respect of the pipelines.

This chamber has, through the work of its standing committee, reflected on both the future of the oil and gas industry and the need to transfer, over time, to a less carbon-intensive economy and to examine the effects of that on various sectors of import. That work is ongoing and important, and this chamber is doing its role.

This chamber isn't the only organization in Canada looking at the questions the honourable senator has asked. There are research institutions, other levels of government, the private sector and companies themselves and, I daresay, advocacy groups who have a different point of view. All of that information needs to be brought forward and to be part of the broader debate.

Finally, and with respect to the particular questions with regard to Kinder Morgan, it is the view of the government, as announced by the ministers responsible, that this project is essential to Canada's economic well-being, that this project is one that ought to go forward. It is a meritorious project. It is a project that will guarantee tidewater access for Canadian exports and the concomitant economic benefits that that provides. This government has, in the announcement that it has made, taken steps to ensure it happens.

As this project evolves, that is to say, as the company makes its determination with shareholders and as the government pursues the ultimate objectives of the construction of the project and the return of the project to the private sector, the government will be making those announcements from time to time and engaging Canadians so that there is transparency and accountability.

But let there be no doubt that it is the view of the government that this is an important sector for Canada's well-being, that this project is important for the sector's well-being and important for the country itself.

Senator Galvez: Yes, I think that it will be beneficial if we can see some numbers on the profitability and the market and the previous engagement with Asian markets.

I have another question. Between now and when the construction starts, who is taking care of the operation of the pipeline and who is assuming the responsibility for the last oil spill that happened recently?

Senator Harder: Again, as has been made clear in statements made outside of this chamber, the project becomes the responsibility of the Government of Canada when the transaction is complete, and the operations continue, and the accountabilities therefore, as previous.

I think that we all know — and Senate studies have confirmed this in various work of the Foreign Affairs Committee and, indeed, other committees — that the Asian markets, generally, are an important part of a diversification strategy for Canada's

well-being. In light of the discussions regarding NAFTA and statements made within the common economic space or at least what we thought was the common economic space of North America, there is greater urgency for that diversification. We should take advantage of the resources that we have to bring to bear the Asian market, irrespective of other ongoing efforts to sustain the North American economic space.

I commend all governments, provincial and national, that over the years have equipped Canada to better take advantage of the growth in the Asian marketplace. Our future depends on it. The well-being of our children demands it, and I hope that we are all attentive to this.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

DIPLOMATIC RELATIONS WITH IRAN

Hon. Larry W. Smith (Leader of the Opposition): My question is for the Leader of the Government in the Senate.

I will read into the record of the Senate of Canada a Tweet sent last week from Ayatollah Khamenei, Iran's Supreme Leader. It stated:

> Our stance against Israel is the same stance we have always taken. #Israel is a malignant cancerous tumor in the West Asian region that has to be removed and eradicated: it is possible and it will happen.

Statements such as these have become commonplace from the Supreme Leader and the Iranian regime. However, no matter how many times they are said, these words must be denounced in the strongest of terms, with no ambiguity.

Given the government's support for the motion put forward in the other place by the Conservative opposition, which specifically condemned Khamenei for calling for genocide against the Jewish people, will the government decide to cease its policy of diplomatic re-engagement with Iran?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I think it has already been asked and answered.

As far as putting on the record Tweets from supreme leaders, we could spend an afternoon on Tweets from other supreme leaders.

Senator Smith: I respect your answer. I would suggest to you that it's not funny because people are suffering in Iran right now. I think there comes a time when people and governments have to stand up and recognize that if these wrongs continue to be done to a people, is it best for us to talk about bilateralism, multiculturalism? That sounds great when you are talking trade, but we are talking human rights. We're talking people. I guess I'm asking for your help. Could you communicate the seriousness of this messaging and hopefully give us some feedback? Because, "Wait and see," doesn't work. We need to have some action.

Senator Harder: Again, honourable senators, surely the vote in the other chamber reflects the views of the government and the record of the government in respect of that vote. I don't know what further statements could be stronger.

Again, the Government of Canada seeks a relationship with Iran that reflects and respects human rights, that reflects and respects the well-being of the region, the stability of the region and the responsibilities that Iran has to the international community.

The Government of Canada will continue to express that bilaterally. It will continue to work cooperatively multilaterally, and I think it is stronger for the government to do so when we are all united in that objective.

DETENTION OF CANADIANS IN IRAN

Hon. Dennis Glen Patterson: My question is for the Leader of the Government in the Senate and is also on Iran.

On May 8, you spoke to the third reading of Bill S-219, the Non-Nuclear Sanctions Against Iran Bill and stated:

> . . . the government must respectfully oppose it, for it is the responsibility of the Government of Canada to speak for Canada's foreign policy intentions.

Yesterday, in the other place, I was pleased to see that the government voted in favour of a Conservative motion on Iran that called upon the government to demand that the Iranian regime immediately release all Canadians who are currently detained in Iran, including Maryam Mombeini, the widow of Professor Seyed-Emami. She has been barred from leaving Iran.

Senator Harder, given this new foreign policy intention, could you please update this chamber on what actions the government will take to secure her release from Iran so that she may finally return home to Canada?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question. Certainly, the intent of his question, the spirit of his question, is to ensure that all steps and appropriate actions are taken to secure the release. As the government has said publicly, it has engaged bilaterally on multiple occasions and multilaterally with like-minded countries on issues of human rights and the well-being of Canadians.

• (1450)

It would be inappropriate for me or for the government, for that matter, to say publicly all of these steps, lest their becoming public undermines our objective. The Minister of Foreign Affairs and all of the officials at the Department of Foreign Affairs are pursuing every avenue possible to deal with the consular issues and the well-being of Canadians who have been referenced in the question.

Senator Patterson: Thank you for that answer. I would like to draw your attention also to the fact that the motion specifically named Saeed Malekpour, a Canadian permanent resident who has been held in Iran's notorious Evin Prison since 2008.

Could you also update this chamber on whether Mr. Malekpour's release will now be sought by our government?

Senator Harder: Again, I thank the honourable senator. I want to assure him that it is not now that we as the Government of Canada are engaged in these efforts. It has been for some time, and those efforts are ongoing, and it is not unhelpful, as the government determined yesterday, to have that expressed in the House of Commons.

[*Translation*]

NATIONAL DEFENCE

CANADIAN MISSION IN IRAQ

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate. The government put an end to Canada's direct airstrikes against ISIS and to the training of Kurdish forces by Canadians.

Meanwhile, it continues to provide training to Iraqi security forces, despite the fact that they seem to be under the growing influence of Iran ever since they were joined by the pro-Iranian Popular Mobilization Forces. That seems rather inconsistent to me.

Senator Harder, why does the government believe that it is still important for Canada to play this role when Iran is exerting a major influence over the Iraqi security forces we are training?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Again, I'll have to ensure a more up-to-date answer, but let me assure the honourable senator that the Government of Canada is supporting and in full regard has participated in the restrictions and other measures that have taken place with respect to sanctions and the like. With respect to the particular question the honourable senator asks, I'll seek an update.

[*Translation*]

Senator Dagenais: Senator Harder, does the government intend to reassess Canada's mission in Iran in the near future?

[*English*]

Senator Harder: Again, with respect to the question, it is my information that the Government of Canada has not made any decision on this matter, but I'm happy to update as I have more information.

[*Translation*]

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Boniface, seconded by the Honourable Senator Sinclair, for the third reading of Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts, as amended.

Hon. Claude Carignan: Honourable senators, I rise today to speak at third reading of Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts. I think it's important to note that the bill was introduced by the government on the heels of a bill to legalize the use and possession of cannabis, Bill C-45, which we just passed with a number of amendments.

[*English*]

Bill C-46 addresses impaired driving due to alcohol and drugs by modernizing the Criminal Code with regard to alcohol-impaired driving and adding new elements concerning drug-impaired driving.

First, I would like to talk about this aspect of the bill.

[*Translation*]

Bill C-46 amends the Criminal Code to allow police officers to use a drug detection device to collect saliva samples from drivers. Officers who have reasonable grounds to suspect that a driver is drug-impaired can require that person to provide a saliva sample for roadside testing using a federally approved detection device.

If the test indicates a drug is present, the individual will be escorted to the police station for more thorough testing by an evaluating officer, who will determine whether the person was driving while drug-impaired. That is actually part of Bill S-230, which I sponsored and this chamber unanimously adopted.

In clause 1, Bill C-46 would also create three separate offences for driving while drug-impaired. They are as follows:

> **(3)** Subject to subsection (4), everyone commits an offence who has within two hours . . .

— here I would underscore "two hours" —

> . . . after ceasing to operate a motor vehicle or vessel or after ceasing to operate or to assist in the operation of an aircraft or of railway equipment . . .

—let me assure you that we are not suddenly delving into labour relations; this is from Bill C-46—

> . . . or after ceasing to have the care or control of a motor vehicle, vessel, aircraft or railway equipment
>
> **(a)** a blood drug concentration that is equal to or exceeds the blood drug concentration for the drug that is prescribed by regulation;
>
> **(b)** a blood drug concentration that is equal to or exceeds the blood drug concentration for the drug that is prescribed by regulation and that is less than the concentration prescribed for the purposes of paragraph (a); or
>
> **(c)** a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation for instances where alcohol and that drug are combined.

Specifics of the government's plan with respect to these crimes are revealed in the *Canada Gazette* of October 14, 2017. Let's review them individually.

The first offence is driving with a blood drug concentration that is equal to or exceeds the blood drug concentration for the drug that is prescribed by regulation. According to the regulations, the limit would be five nanograms or more per millilitre of blood.

The second offence is operating a motor vehicle, vessel, aircraft or railway equipment with a blood drug concentration that is equal to or exceeds the blood drug concentration for the drug that is prescribed by regulation and that is less than the concentration prescribed for the purposes of paragraph (a). According to the regulations, the concentration would be between two and five nanograms per millilitre of blood.

Finally, the third offence is operating a motor vehicle, vessel, aircraft or railway equipment with the presence of both drugs and alcohol in one's body. The combined levels here would be of more than 2.5 nanograms of drugs and of more than 50 milligrams of alcohol per millilitre of blood.

[*English*]

As we heard during the meetings of the Standing Senate Committee on Legal and Constitutional Affairs, setting these limits is very problematic. Even the Minister of Justice hinted at this on January 31 this year when she said:

> The current scientific evidence clearly sets out that specific legal drug limits or limits for drugs is more complex than for alcohol. The proposed limits reflect the best scientific evidence and were informed by the experiences of other countries. The Government of Canada has received its scientific evidence on issues relating to drug-impaired driving for more than 30 years from the Drugs and Driving Committee of the Canadian Society of Forensic Science.

[*Translation*]

At that meeting, she answered a question of mine by saying, and I quote:

> I will say, with respect to alcohol-impaired driving, that mandatory alcohol screening has been introduced. The reason there isn't mandatory drug screening is that the science around drug-impaired driving and the recognition of levels of impairment within an individual is not as advanced or as exact as alcohol-impaired driving.

• (1500)

The testimony of Mr. Smith, toxicologist for the RCMP and member of the drug task force, was not very reassuring. I would like to read a few excerpts that are worth noting.

> Basically, the issue we ran into with THC is that it's going to depend upon the individual, whether you're male or female, your body size and the amount of fat you have in your body, because THC is fat soluble. This is why we have the issue with residual concentrations of THC in the blood long after a person has finished smoking.
>
> The aspect that happens as well that's probably even more important is the tolerance of the individual and how frequently they smoke or consume the drug, if they're eating it as edibles. We can see it's not going to be uncommon that we're going to have people who are on a medical marijuana regime who are going to have a baseline level of THC because they are consuming it every day to deal with their medical issues.
>
> You're going to have people who have THC in their blood for a long period of time, and then you will have an infrequent smoker in whom you may be able to measure THC in the blood up to a day after they've finished — someone who is just sharing a joint at a Friday night party or something like that.
>
> Our challenge with dealing with creating per se levels and providing that information back to the government is what the research says. Unfortunately, the research is not great . . . .

Finally, in response to a question that I asked him about regulating THC levels, Mr. Smith said, and I quote:

> As I said, we dealt with it from a perspective of not setting a per se limit. When the government said they wanted numbers, we provided a series of numbers with the pros and cons, saying that if you pick 2, these are the issues you're going to have. If you pick 5, here are the challenges on people being impaired or not being impaired. If you pick 10, this is what is going to happen on the pros and cons of those issues.

That becomes a policy issue for government, not for the Drugs and Driving Committee to deal with. We're just sitting here saying, "Here are the pros and cons if you deal with per se, the challenges you'll face dealing with people who may not be impaired at that level or the people who are going to be impaired below that level that you choose." That's a government policy issue. We just provided the advice.

[*English*]

Dear colleagues, as you know, when judicial challenges arise, the courts will be invited to check the debates which occurred in both chambers and in committee. For a defence lawyer, this will be a gold mine of statements showing the lack of preparedness of the government, but especially the lack of scientific evidence to set these THC levels.

One of two things will happen. If science is sufficiently advanced to create an offence, it must be sufficiently advanced to adopt a testing method. Inversely, if science is not sufficiently advanced to detect THC, then how can we create an offence?

[*Translation*]

One of two things will happen. If science is sufficiently advanced to create an offence, it must be sufficiently advanced to adopt a testing method. Inversely, if science is not sufficiently advanced to detect THC, then how can we create an offence?

When I introduced Bill S-230 on detecting drug-impaired driving, I avoided that pitfall by not setting a THC limit. Instead, my bill provided only for detecting the presence of the drug in a driver's saliva. After that, it is up to the evaluating officers to conduct a series of tests to determine whether the driver is impaired. By establishing an arbitrary level that is not supported by science, the government is once again opening the door to a whole host of court challenges, which will no doubt completely clog the court system.

Mario Harel, President of the Canadian Association of Chiefs of Police, shares that view. On February 15, he made the following remarks:

> Currently, we know that cases of alcohol-impaired driving are often challenged, and police officers are often called to testify in court. My opinion is that there will be an exponential rise in cases of drug-impaired driving brought before the courts.

I think the new offences will be challenged very quickly and won't stand up in court. Sadly, if my prediction turns out to be accurate, it means we're going to end up facing a legal vacuum once cannabis becomes legal. That is deeply troubling.

Furthermore, we just voted against reinstating random alcohol testing for drivers. We'll see how the government responds to that decision. Bill C-46 makes it a criminal offence to operate a motor vehicle, vessel, aircraft or railway equipment with a certain blood alcohol or THC concentration.

Considering that Bill C-46 comes on the heels of Bill C-45, the cannabis legalization bill, I was shocked to see that the government wanted drivers to be randomly tested for alcohol, but not for drugs. I was also shocked to see that the random testing would apply to drivers, but not to operators of public transit vehicles like planes, trains and boats. Bus and truck drivers would have been subject to random testing for alcohol, obviously, but not for drugs. Honourable senators, don't you think this shows a lack of consistency and, above all, a lack of caution?

I am particularly concerned about the monitoring of drug and alcohol levels among airline pilots, train engineers and bus or tractor trailer drivers especially in the absence of random drug testing. You will recall the comments I made in my speech at second reading stage. On November 2, 2017, the Transportation Safety Board filed its report on the crash of a Carson Air aircraft that occurred on April 13, 2015, in British Columbia. The TSB investigation indicated that the aircraft's pilot had a blood alcohol level far above allowable limits and found that he was alcohol impaired. In fact, his blood alcohol level was 0.24, or three times the allowable limit for automobile drivers. Airplane pilots are not allowed to consume alcohol in the eight hours preceding their flight. The TSB report indicated the following:

> People with alcohol use disorder are at a 60 to 120 times greater risk of suicide than members of the population without a psychiatric illness. Suicide accounts for 20% to 33% of the increased death rate among those with alcohol dependence compared with the general population.

The TSB investigation of the airplane accident concluded that the crash was probably caused intentionally by the pilot. Fortunately, this was not a passenger flight, unlike the Germanwings Airbus A320 that had crashed into a mountainside about 20 days earlier, killing all 150 people on board. In the case of the Germanwings crash, it was proven that the co-pilot had acted deliberately.

On May 2, Federally Regulated Employers — Transportation and Communications told us the following:

[*English*]

> Our key message is this: With the introduction of Bill C-46 and its companion bill, Bill C-45, the Government of Canada has failed to address the impact of recreational marijuana on the workplace. This is a serious oversight with potentially catastrophic consequences for workers, employers and the public at large. There is already a safety gap in Canada as it relates to the presence of alcohol and drugs in the workplace. The legalization of cannabis is only going to make this problem worse.

• (1510)

> Evidence from the U.S. states that have already legalized cannabis, such as Colorado, reveal startling trends. The data shows that consumption is going to increase when legalization occurs. This matters to employers. We know the same increase in use is going to find its way into the safety-sensitive workplaces. . . .
>
> Some groups will argue that alcohol and drug testing infringes an individual's privacy. Yet Bill C-46, will allow random roadside alcohol testing. This is thought by government to meet the Charter test. If privacy rights are outweighed for an individual driving a single automobile on a highway, the same logic must apply to a pilot flying a plane with 200 passengers, a train conductor hauling 50 cars of chemicals, a bus driver carrying 60 passengers, a trucker operating on a major highway or any worker whose workplace actions could impact the life of a co-worker or the public.
>
> We believe a legislated solution is required. We ask that you amend Bill C-46 to accommodate these important concerns.

[*Translation*]

Some, like Senator Pratte, claim that this is a matter of labour law, as the issue has been raised by employers. Making a criminal offence to fly a plane or drive a train while impaired under Bill C-46, however, has nothing to do with labour law. This is different from the situation on which the Supreme Court ruled in *Irving*, in which an employer wanted to test employees for alcohol or drug use in order to take disciplinary action. In this case, we are talking about screening for and enforcing a criminal offence, created by Bill C-46, for which the state must develop the screening tools and methods needed to comply with the act.

The Canadian Ferry Association, the Railway Association of Canada, the Toronto Transit Commission, and the Association du camionnage du Québec all spoke out in favour of random testing in their industry.

With regard to lessons learned abroad, I have three quick quotes to share with you.

Kathleen Fox, chair of the Transportation Safety Board of Canada, appeared before the Standing Senate Committee on Legal and Constitutional Affairs on May 3, 2018, where she said:

> Following this accident, we analyzed programs that exist in the United States, the United Kingdom and in Australia. The United States and Australia have programs for random testing. However, it is difficult to determine their efficiency. They do not have statistics that would show the number of times they caught someone before they took control of an airplane or before working in a critical safety-sensitive position. We are not in a position to say whether it is effective, but they have very few accidents. They did conduct comparisons before and after these programs came into force. They observed a decrease in accidents with drug or alcohol as factors.

Here is what we heard from Nathalie Léveillé, coordinator for legal affairs and compliance for the Association du camionnage du Québec:

> . . . since 1995, Canadian carriers and heavy vehicle drivers who travel in the United States are subject to very strict regulations that include alcohol and drug tests. This includes, among other things, random tests, post-accident tests, and follow-up tests when drivers return to work. The fact is that since this test regime was put in place, it can be said that the industry's concerns about drugs and alcohol have practically been eliminated.

Here are some statistics about the effects of random testing of public transit drivers. In the United States, according to the *American Journal of Epidemiology*, 2009, vol. 170, no. 6, the mandatory screening program introduced in 1995 led to a 23 per cent reduction in fatal accidents involving drunk motor carrier drivers.

Also in the United States, according to paragraph 105 of the affidavit by Dr. Mace Beckson, professor of psychiatry at UCLA, once random tests were instituted in federally regulated workplaces, the percentage of positive test results dropped from 1.76 per cent in 1995 to 1.2 per cent in 1998 and 0.79 per cent in 2005. The percentage of positive post-accident tests also dropped from 4.3 per cent in 1997 to 2.3 per cent in 2011.

Here's another example, this one from the London Underground. According to an affidavit by Andy Byford, CEO of the Toronto Transit Commission, London Underground management implemented random testing for its employees in 1993. Positive test results decreased dramatically from 3.42 per cent in 1993 to 1.9 per cent in 1994 and 1.18 per cent in 1995 and have remained low ever since.

Also according to Andy Byford, in New South Wales, the introduction of random testing in the railway industry in 2004 saw the rate of positive drug tests decrease from 3 per cent in 2004 to 1.4 per cent in 2006 and about 0.75 per cent in 2012. Positive alcohol tests also saw a major decline.

Some people will point out that since we argued that random testing is unconstitutional for motorists, it must also be unconstitutional for public transit operators. I disagree.

During the course of the Standing Senate Committee on Legal and Constitutional Affairs' hearings on Bill C-45, I asked Kyla Lee, a lawyer with Acumen Law Corporation, that specific question. Ms. Lee is a criminal defence lawyer practicing in Vancouver primarily in the area of impaired driving law. She is convinced that if Canada were to adopt mandatory random testing, the courts would quickly become clogged up with challenges. She said, and I quote:

> Some of the major concerns I have with Bill C-46 relate to the mandatory breath testing component of the legislation. It is my view that these provisions of the proposed legislation violate section 8 of the Charter. They permit police officers to conduct completely arbitrary testing of individuals for bodily samples.

I took the opportunity to ask Ms. Lee what she thought of random testing for public transit operators and people in key positions such as airline pilots, bus drivers and train engineers. What follow are my question and her answer:

[*English*]

> If we were to apply the random breath testing system to public carriers, such as airline pilots, locomotive engineers, and anything related to public transportation, such as buses and trains, do you think it would have been much more likely to pass the Charter test than by imposing it on the entire population?

Her answer:

> Yes. I think it would because it eliminates a lot of those concerns about targeting visible minorities or targeting certain individuals. And it also deals with people in a professional capacity where you should know these obligations are on you if you're taking on the profession of public transit, and it identifies only individuals who control conveyances that contain people or have the potential to cause serious damage to a large number of people. . . .
>
> I think it also dovetails really nicely with existing controls and rules and regulations already in place for bus drivers, pilots and trained drivers. It's not imposing any additional obligation on them. They are already subject to employment restrictions that require them to be tested for drugs and alcohol if their employer requests them to do so. It doesn't impose any further burden on those people in that capacity.

• (1520)

[*Translation*]

I already gave the example of airline pilots who may get stopped by peace officers after landing to undergo screening at the airport. However, there will be no random drug testing before takeoff. That is ridiculous. It makes no sense. Ask yourselves the question, dear friends. Ask your parents and family members the question. Would you prefer your pilot to be tested before takeoff or after? Everyone answers "before". That is common sense. Some claim that legislating on the matter would be an intrusion into labour relations. Again, that is short-sighted.

I would remind you, honorable senators, that we are currently studying Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts. Subsection 253(1) of the Criminal Code is clear on the offence of operation while impaired, which reads as follows:

> Every one commits an offence who operates a motor vehicle or vessel or operates or assists in the operation of an aircraft or of railway equipment or has the care or control of a motor vehicle, vessel, aircraft or railway equipment, whether it is in motion or not

We are spending more time on the enforceability of this section of the Criminal Code and what resources we might provide law enforcement to help them detect and address this public safety problem, which was raised during consideration of Bill C-46.

[*English*]

Therefore, senators, I believe that we have a golden opportunity today during the third reading of Bill C-46 to give police authorities the tools they need to make sure our people are safe, not only on our roads, but also in various forms of public transit: in the air, on the water and on railways.

[*Translation*]

MOTION IN AMENDMENT NEGATIVED

Hon. Claude Carignan: Therefore, honourable senators, in amendment, I move:

Therefore, honourable senators, in amendment, I move:

> That Bill C-46, as amended, be not now read a third time, but that it be further amended in clause 15,
>
> (*a*) on page 23, by replacing line 35 (as replaced by decision of the Senate on June 4, 2018) with the following:
>
> "**320.27 (1)** If a peace officer has reasonable grounds to";
>
> (*b*) on page 24, by adding the following after line 17:
>
> "**(2)** A peace officer may, in the course of the lawful exercise of powers under an Act of Parliament, an Act of a provincial legislature or arising at common law, by demand, require the person who is operating a vessel, an aircraft, any railway equipment, a bus, a heavy-load truck or a taxi cab to immediately provide the following samples that, in the peace officer's opinion, are necessary to enable a proper analysis to be made by means of an approved device or the approved equipment and to accompany the peace officer for that purpose:
>
> **(a)** samples of breath, if the peace officer has in his or her possession an approved screening device; and
>
> **(b)** samples of a bodily substance, if the peace officer has in his or her possession the approved drug screening equipment."; and
>
> (*c*) on page 34, by replacing line 18 (as replaced by decision of the Senate on June 4, 2018) with the following:
>
> "conducted under paragraph 320.27(1)(a); and".

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Stewart Olsen, that Bill C-46 be not now read a third time — may I dispense?

Hon. Senators: Agreed.

The Hon. the Speaker: On debate? Senator Lankin?

[*English*]

Hon. Frances Lankin: Thank you very much, Senator Carignan. I hope you will indulge me in asking a couple of procedural questions because I'm not sure I understand how this will work. And then I have a couple of content questions. Using the example of the pilot or the train engineer, how and where would the police stop and apply this test?

[*Translation*]

Senator Carignan: It's normally a peace officer, typically a customs officer. There are many police officers posted at airports to enforce the law.

Boats are also monitored by police. In fact, I asked a representative of Éduc'alcool a question about pleasure boating, using the example of an accident on the Richelieu River. Police officers patrol the waterways and perform the necessary tests. The Éduc'alcool witness told me that the effects of alcohol appear two to three times faster on water than on land.

As for railways, the tests can be done at the station or wherever the train stops, before the engineer takes the controls, so they're relatively easy to apply. In both cases, they can screen for alcohol and drugs.

[*English*]

Senator Lankin: Thank you very much. I presume from what I understand about the discussion we had around mandatory alcohol screening that police officers — and in the provision from the government which has been overturned by the Senate — would have to be trained, et cetera.

Can you tell me how that correlates with what's here in terms of mandatory training for peace officers? I assume they are able to apply a test currently under the law where there is reasonable suspicion by virtue of their right to stop the vehicle.

When we're thinking about search and seizure, I don't know what the stop provisions are here that would allow it. I don't even see a reference to the provision of a test. Maybe it's here and I missed it in how you explained it, but there is a reasonable suspicion test, there is no test, there is no stopping. How can somebody, a peace officer, according to this, perhaps not even specially trained as police officers would have to be, have the ability to determine that I'm going to stop your legal passageway walking through an airport and apply this?

[*Translation*]

Senator Carignan: I think pilots would be stopped before takeoff, not after. In airports that have screening, people don't really expect much privacy. I see that Senator Gold agrees with me on this. Airports are one place where people have little expectation of privacy. I think you agree with me there.

[*English*]

Senator Lankin: I noted you didn't respond to the specialized training question, but maybe you will.

Why have you formed the opinion that the tests that were spoken to in the Supreme Court of Canada decision in *Irving* are not applicable? In fact those tests are tests that have been used in arbiter law in terms of grievances about management rights clauses and the ability to impose mandatory screening. It is repeated in human rights laws, and from my reading of the Ontario Human Rights Commission, their description of mandatory testing and the complications in relationship to disabilities and discrimination and the way it has to be approached. They have a test. The Supreme Court has a test. Those tests talk about the need to see evidence of a problem sufficient enough to bring it in, not just protection of safety in sensitive areas. In fact they reject that as a sole argument.

• (1530)

In part, can you please explain to me why you think, in one day, that we can dive into this area that has years of arbitral law, Supreme Court law, a whole range of things on balancing these issues when you're bringing it in, particularly after many of you in this chamber — although you said you disagree — mounted a strong argument around rights and privacy and constitutionality?

[*Translation*]

Senator Carignan: The answer to that question is simple. The *Irving* case dealt with random drug testing in a private sector workplace conducted by a private sector employer seeking to monitor and potentially take disciplinary action against its employees. The case we have before us involves the Criminal Code since we are talking about the government taking action with regard to a criminal offence. The government is taking action to detect and prevent criminal offences. That is a whole different sphere of activity. We are talking about the government taking action on a criminal offence, not a measure to prevent disciplinary charges.

Obviously, the requirements for punishing employees or taking disciplinary action against them are not the same as those for detecting and preventing criminal offences.

[*English*]

The Hon. the Speaker: There are other senators who wish to ask questions, so if time permits, we will come back to you, Senator Lankin.

Hon. Art Eggleton: Senator Carignan, let me ask you a question with respect to the heavy-load trucks or taxi cabs. I don't know if taxi cab includes new kinds of carriers like Uber, but you may comment on that.

However, I presume that these would be roadside kinds of tests. In that case, what makes them different from a roadside test for any other kind of vehicle? You are still saying they have to have reasonable grounds, so what makes this any different from anybody else pulled over at the side of a road if there are reasonable grounds for suspicion?

[*Translation*]

Senator Carignan: If the intent is to target public carriers, such as bus drivers or even taxi drivers, who work in public transit and who have an obligation to keep their passengers safe as part of their job, then obviously the expectation of privacy is considerably lower than it is when we are dealing with an individual who is driving his or her own vehicle to work or a social event. Everything is a matter of nuance when it comes to the expectation of privacy, which is completely different for a taxi driver, an organization or a government-regulated activity than it is for a private individual driving around.

[*English*]

Hon. Marc Gold: Senator Carignan, in the course of your speech, you complained that there was a lack of coherence between Bill C-46's treatment of alcohol and drugs with regard to random versus suspicion-based testing. I think coherence is important, although in that regard the government may have a point, but you distinguished between random alcohol testing for drivers on the roads and for truck drivers and others on the basis of the statement of a witness before the committee that you quoted .

Now, I'm not in the habit — and I think it's somewhat not in the best tradition of the Senate — of denigrating the witnesses who come before our committees, and so I won't do that. But I do simply want to ask you to defend the distinction, which strikes me as very slim indeed. The same privacy rights are at stake; the same Charter values that were so notably championed the other day are at stake. Could you please explain to me why your argument for the introduction of random testing is coherent with the position that you and colleagues have taken to pull random alcohol screening from Bill C-46 for drivers?

[*Translation*]

Senator Carignan: I read part of my exchange with a constitutional law expert who appeared in committee. Maybe I read it too quickly, but it is clear that airplane pilots and truck drivers do not have the same expectation of privacy. I'll reread the part I'm talking about:

> If we were to apply the random breath testing system to public carriers, such as airline pilots, locomotive engineers, and anything related to public transportation, such as buses and trains, do you think it would have been much more likely to pass the Charter test than by imposing it on the entire population?

Here is her response:

> Yes. I think it would because it eliminates a lot of those concerns about targeting visible minorities or targeting certain individuals. And it also deals with people in a professional capacity where you should know these obligations are on you if you're taking on the profession of public transit, and it identifies only individuals who control conveyances that contain people or have the potential to cause serious damage to a large number of people. . . .
>
> I think it also dovetails really nicely with existing controls and rules and regulations already in place for bus drivers, pilots and trained drivers.

By the very nature of their work, they do not have the same expectation of privacy. These people occupy critical jobs, and in the event that there was ever an incident that led to a catastrophic event, a distinction needs to be made.

Even in labour law, even in private sector matters, if we were to take the *Irving* ruling and apply it to labour relations, the Supreme Court would make the distinction. That's why, in her dissenting judgment, Justice McLachlin indicated that we can't wait for disaster to strike before testing an individual. There is a line of jurisprudence developing, even in labour matters involving private parties. Many decisions, including one involving the Ontario Transit Association, have established that, when a person is in a key position and an accident happens that causes a catastrophe, random alcohol and drug testing is charter-compliant even from a labour relations perspective. In other words, it applies, especially when a situation must be monitored to prevent a crime.

[*English*]

Senator Gold: Thank you for that, Senator Carignan. I have now heard, for the second time, the testimony of the witness. And again, I respect competence as a defence lawyer, but the repetition of the testimony doesn't actually make it any more persuasive.

I'm sure we in the chamber are probably getting tired of constitutional law arguments. So I would simply ask you whether you would agree that were you to ask a panel of constitutional law experts — true experts as opposed to members of the bar, and I would include many who have already been named in this chamber without distinction between them — most if not all of them would say that the distinction being drawn between drivers of cars who cause more damage and death on the roads than drivers of trucks and others is a distinction that for the purpose of the distinction you have made under the Charter under section 8 or section 1 —

[*Translation*]

It doesn't hold water. Thank you.

• (1540)

[*English*]

The Hon. the Speaker: I'm sorry Senator Carignan, but your time has expired.

[*Translation*]

Senator Carignan: May I have another five minutes?

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Carignan: I might have expected certain comments from senators who voted against your amendment yesterday, but I didn't expect you to change your mind overnight. While random testing is fine for people driving their own vehicles, apparently it is not fine for an airline pilot, heavy equipment operator or bus driver. Quite frankly, I think there is a difference, and if it was constitutional yesterday, I would argue that this amendment is even more constitutional today. If you were to ask your friend, Professor Hogg, I'm quite sure he would agree that this amendment is constitutional. I think we should adopt it in order to enhance public protection.

[*English*]

Hon. Vernon White: Will the senator take a question?

[*Translation*]

Senator Carignan: Yes, of course.

[*English*]

Senator White: First of all, I'm in favour of mandatory alcohol screening, obviously, but I'm trying to figure out what makes you say this is commercial, because we have thousands of aircraft in this country that are owned privately. Are you suggesting private aircraft and private pilots, as well, who don't have that same obligation you referred to earlier about aircraft and heavy equipment?

[*Translation*]

Senator Carignan: Yes, of course. Anyone who flies a plane, whether a private aircraft or for an airline, would be committing a criminal offence. The recommendation made by the Transportation Safety Board of Canada had to do with a small aircraft.

[*English*]

Senator White: In many places in this country, small aircraft are used privately as a vehicle would be to get people from point A to point B, and it's the same with vessels, actually, on the west coast of British Columbia. Maybe a subamendment would be required after "taxi cab." Maybe "any other motorized vehicle" would cover this.

[*Translation*]

Senator Carignan: You could certainly present a subamendment to that effect — you or Senator Gold.

[*English*]

Hon. Mary Jane McCallum: With the taking of bodily fluids, does this include blood?

[*Translation*]

Senator Carignan: Yes.

[*English*]

Senator McCallum: When you're looking at taking bodily fluids, how do you take into account the consent issue and the skill of the officer, including a skill that is by provincial law designated to specific individuals?

How do you account for the blood storage and its transportation, the client's medical history including the taking of the blood pressure, and whether that officer will determine to continue taking the blood?

[*Translation*]

Senator Carignan: I'm not sure what you saw in my amendment, but all of that is already provided for in Bill C-46 and in the Criminal Code. The amendment I am proposing adds nothing to what already exists in Bill C-46 or in the Criminal Code in terms of the samples to which you refer, including blood samples, their conservation or analysis.

[*English*]

Hon. Gwen Boniface: Senator Carignan, will you take a question?

[*Translation*]

Senator Carignan: Yes, of course.

[*English*]

Senator Boniface: Could you give me a sense of your definition of a heavy load truck? I'm trying to get a sense of what we are talking about, and I have a second question if we have time.

[*Translation*]

Senator Carignan: Yes, it's the one that's already been defined. I know that you want to seek adjournment on this item in your name. I can tell you that the various tonnage levels are already defined in the highway traffic act. However, I can get back to you with a more accurate response if you'd like.

[*English*]

The Hon. the Speaker: I'm sorry, Senator Boniface, but Senator Carignan's time has expired. Are you asking for more time, Senator Carignan?

Leave is not granted.

On debate, Senator Lankin.

Senator Lankin: I made a statement during a question that I put to Senator Carignan, and I just want to repeat this. Having looked through arbitral law, human rights commissions, jurisprudence and their proclamations on their sites and Supreme Court decisions, there is nothing in what you are proposing that takes into account the extensive amount of work, deliberation, consideration and decision making that has gone on with respect to the test to be applied before such a measure as random testing related to workplace performance could or should be allowed to take place.

I think that a number of points have been brought to bear on this that should give us all cause to pause and not move quickly where something is being brought to us at third reading and has not been given consideration and review. We have not heard an answer to what the parallel provision for education, specialized training, skills building, et cetera, of peace officers in this amendment that would be the corollary to police officers and the training that they are required to have for mandatory alcohol screening as had been proposed in the legislation by the government.

We have not heard the distinctions that maybe should be made or haven't even been considered, given the points that Senator White has raised about someone flying a commercial airplane versus a private plane where they are going into their fishing lodge, for example.

In the right and ability for police to stop a car that is contained within provisions and their powers, there is no such power to stop individuals without various tests being applied of reasonable suspicion of a crime or intoxication in this case or anything else; nothing is set out in here.

The last thing I want to say, this is being proposed as being brought forward on two last things, on safety and sensitive jobs in workplaces, and I make the case that the tests that have been in all of the jurisprudence dealing with these things are relevant.

I want to read from the case summary of the *Irving* decision, where they say that many arbitration decisions have been rendered which provide that an employer can impose a rule with disciplinary consequences only if the need for the rule outweighs the harmful impact on the employees' privacy rights.

We are talking about safety and rights in the balance, and Senator Carignan appropriately spoke to those issues.

The approach has resulted in a consistent arbitral case law in which it has been found that, when a workplace is considered dangerous, employers are justified in testing their employees in the following circumstances: if there is a reasonable cause to believe the employee was impaired while on duty, was involved in a workplace accident or incident or was returning to work after treatment for substance abuse.

This, to me, is an important caution. That being said, a policy of mandatory random testing imposed unilaterally, even in safety-sensitive positions, has been overwhelmingly rejected by arbitrators, indicating that such policies are an unjustified affront to the dignity and privacy of employees. The dangerousness of a workplace, although clearly relevant, has never been found to be an automatic justification for such a policy.

That, honourable senators, is not to say that we shouldn't at some point in time, or that the idea that Senator Carignan is putting forward isn't one that we should look at seriously and debate and give consideration to, but not at third reading and not without witnesses having been brought forward.

I ask you how many people who have been involved in litigation of these issues of mandatory testing and privacy rights before the courts or before arbitrators did you call before your committee and hear testimony from? How many unions did you call? This issue deserves to be aired, all sides of it, and we should take a very serious approach forward.

• (1550)

If your concern is more related to the fact that you want an explicit Criminal Code violation that can lead to prosecution — if that's what you're working toward — then we're informed by people like Michael Bryant from the Canadian Civil Liberties Association that the Criminal Code already takes that into account. There is provision for criminal negligence related to intoxication by professionals in carrying out their duties. I think this is covered.

I think this has been brought forward way too late in the debate to be given serious consideration and sober second reflection. I also believe that, as constructed, it opposes the very rules we have set out for police officers when they are conducting this kind of activity; it lacks clear definition in terms of whom it applies to; and, at the end of the day, it is redundant because there is already a criminal conviction available.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Stewart Olsen, that Bill C-46 be not now read a third time — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: The bell will be 30 minutes, with the vote taking place at 4:21 p.m.

Call in the senators.

• (1620)

Motion in amendment of the Honourable Senator Carignan negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	McIntyre
Ataullahjan	Mockler
Batters	Neufeld
Beyak	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett
Doyle	Poirier
Housakos	Seidman
MacDonald	Smith
Maltais	Tannas
Marshall	Tkachuk
Martin	Wells—27
McInnis	

NAYS
THE HONOURABLE SENATORS

Bellemare	Griffin
Black (*Alberta*)	Harder
Black (*Ontario*)	Hartling
Boniface	Jaffer
Bovey	Lankin
Boyer	Lovelace Nicholas
Campbell	Marwah
Christmas	McCallum
Cools	Mégie
Cordy	Mercer
Cormier	Mitchell
Coyle	Moncion
Dalphond	Omidvar
Dawson	Pate
Day	Petitclerc
Deacon	Pratte
Dean	Ravalia
Downe	Richards
Duffy	Ringuette
Dupuis	Saint-Germain
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(On motion of Senator Boniface, debate adjourned.)

(At 4:29 p.m., the Senate was continued until tomorrow at 1:30 p.m.)

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